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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

U.S. BANK NATIONAL
ASSOCIATION,
Plaintiff,
vs.
CARLOS MUÑOZ, et al.,
Defendants. } Case No. CV 14-2993-UA (DUTYx)
} ORDER SUMMARY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because defendant removed it improperly.

On April 18, 2014, defendant Carlos Munoz, having been sued in what appears to be a routine unlawful detainer action in California Superior Court, lodged a Notice of Removal of that action to this Court, and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either

1 diversity or federal question jurisdiction, and therefore removal is improper. 28
2 U.S.C. § 1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546,
3 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Here, defendant has asserted both
4 federal question jurisdiction and diversity jurisdiction as his bases for removal.
5 But the unlawful detainer action to be removed does not actually raise any federal
6 legal question. *See* 28 U.S.C. §§ 1331, 1441; *Merrell Dow Pharmaceuticals Inc.*
7 *v. Thompson*, 478 U.S. 804, 808, 106 S. Ct. 3229, 92 L. Ed. 2d 650 (1986) (“the
8 question for removal jurisdiction must . . . be determined by reference to the ‘well-
9 pleaded complaint’”). Further, even if complete diversity of citizenship exists, the
10 amount in controversy does not exceed the diversity jurisdiction threshold of
11 \$75,000, contrary to defendant’s contention in the Notice of Removal. *See* 28
12 U.S.C. §§ 1332, 1441. Indeed, the unlawful detainer complaint asserts that the
13 amount in controversy does not exceed \$10,000.

14 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
15 Superior Court of California, Los Angeles County, Long Beach Judicial District,
16 275 Magnolia Avenue, Long Beach, CA 90802, for lack of subject matter
17 jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified
18 copy of this Order to the state court; and (3) that the Clerk serve copies of this
19 Order on the parties.

20
21 DATED: April 24, 2014 
22 HONORABLE GEORGE H. KING
23 CHIEF UNITED STATES DISTRICT JUDGE

24 Presented by:
25 

26 Sheri Pym
27 United States Magistrate Judge
28